

ASSEMBLY, No. 981

STATE OF NEW JERSEY

215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Assemblywoman AMY H. HANDLIN

District 13 (Monmouth)

SYNOPSIS

“School Children First Act”; modifies evaluation of teachers and principals; revises tenure acquisition process and certain tenure charge procedures; establishes factors for determining compensation; requires mutual consent for teacher placement; and eliminates certain seniority rights.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning certain teaching staff members, supplementing
2 chapters 27, 28, and 29 of Title 18A of the New Jersey Statutes,
3 and revising various parts of the statutory law.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) This act shall be known and may be cited as
9 the “School Children First Act.”
10

11 2. (New section) The services of all teaching staff members
12 employed in the positions of teacher, principal, other than
13 administrative principal, assistant principal, and vice-principal,
14 serving in any school district or under any board of education,
15 excepting those who are not the holders of proper certificates in full
16 force and effect, shall be under tenure during good behavior and
17 efficiency and they shall not be dismissed or reduced in
18 compensation except for inefficiency, incapacity, or conduct
19 unbecoming such teaching staff member or other just cause and
20 then only in the manner prescribed by subarticle B of article 2 of
21 chapter 6 of Title 18A of the New Jersey Statutes, after the
22 employee receives annual ratings of “effective” or “highly
23 effective” as defined by regulations promulgated in accordance with
24 the provisions of section 5 of P.L. , c. (C.) (pending before
25 the Legislature as this bill) in the most recent annual evaluation and
26 in the two years preceding the most recent annual evaluation.

27 For the purposes of P.L. , c. (C.) (pending before the
28 Legislature as this bill), tenure in any of the administrative or
29 supervisory positions enumerated herein shall accrue only by
30 employment in the administrative or supervisory position. Tenure
31 so accrued shall not extend to any other administrative or
32 supervisory position.
33

34 3. (New section) A teacher under tenure who receives an
35 annual rating of “ineffective” for one year, or an annual rating of
36 “partially effective” for two consecutive years, shall revert to non-
37 tenure status and may be subject to dismissal by either the board of
38 education or the school principal. A principal, assistant principal,
39 or vice-principal under tenure who receives an annual rating of
40 “ineffective” for one year, or an annual rating of “partially
41 effective” for two consecutive years, shall revert to non-tenure
42 status and may be subject to dismissal by the board of education or
43 the superintendent. A teaching staff member employed as a teacher,
44 principal, assistant principal, or vice-principal who reverts to non-

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 tenure status after receiving an annual rating of “ineffective” or two
2 consecutive annual ratings of “partially effective” shall revert to
3 tenure status following three consecutive annual ratings of
4 “effective” or “highly effective.”

5
6 4. (New section) Any teacher, principal, assistant principal, or
7 vice-principal under tenure on the effective date of this act shall
8 continue under tenure subject to the annual rating requirements set
9 forth in section 3 of P.L. , c. (C.) (pending before the
10 Legislature as this bill).

11
12 5. (New section) a. Every board of education in this State
13 shall, beginning with the 2012-2013 school year and thereafter,
14 cause each teaching staff member employed by it in the positions of
15 teacher, principal, assistant principal, and vice-principal to be
16 observed in the performance of his duties at least twice during each
17 school year. The number of required observations may be reduced
18 proportionately when an individual teaching staff member’s term of
19 service is less than one academic year. Each observation may be
20 followed by a conference between that teaching staff member and
21 his superior or superiors. The purpose of this procedure is to
22 recommend as to reemployment, identify any deficiencies and
23 extend assistance for their correction, and improve professional
24 competence.

25 b. Regulations shall be promulgated pursuant to section 27 of
26 P.L. , c. (C.) (pending before the Legislature as this bill)
27 pertaining to the evaluation of teaching staff members employed in
28 the positions of teacher, principal, assistant principal, and vice-
29 principal that shall be binding upon and supersede any district-
30 adopted evaluation criteria or process that may be inconsistent with
31 the regulations. The regulations shall provide for an educator
32 evaluation system for teaching staff members employed in the
33 positions of teacher, principal, assistant principal, and vice-
34 principal using multiple performance measures and shall at a
35 minimum include:

36 (1) four defined annual rating categories for teachers, principals,
37 assistant principals, and vice-principals: ineffective, partially
38 effective, effective, and highly effective;

39 (2) a provision requiring that at least 50% of the effectiveness
40 ratings be based on objective measures of student learning such as
41 standardized test scores or other quantifiable indicators;

42 (3) objective measures of student learning that use growth from
43 one year’s quantifiable measure to the next year’s quantifiable
44 measure;

45 (4) a provision that multiple measures of teaching staff practice
46 and student learning be used in rating teaching staff effectiveness
47 with specific measures and implementation processes;

1 (5) a requirement that teaching staff receive at least one final
2 annual summative evaluation for the school year, and a conference
3 with their superior or superiors following this evaluation;

4 (6) an opportunity for teaching staff to improve their
5 effectiveness from routine evaluation feedback;

6 (7) guidelines for school districts regarding training on the
7 evaluation system to support its implementation; and

8 (8) a performance framework, associated evaluation tools, and
9 observation protocols with a process for a school district to obtain
10 the approval of the commissioner to utilize other evaluation tools.

11 c. Each school district shall fully implement the educator
12 evaluation system by the 2012-2013 school year, provided however
13 that any evaluation system or process that is set out in any existing
14 collective bargaining agreement need not conform to the educator
15 evaluation system set forth in regulations until such time as the
16 agreement expires. No collective bargaining agreement or other
17 contract entered into by a school district after July 1, 2012 shall
18 conflict with the educator evaluation system set forth in regulations.

19 d. Beginning in the 2012-2013 school year and thereafter,
20 annual ratings of teaching staff members employed in the position
21 of principal, assistant principal, and vice-principal shall not be
22 subject to grievance or appeal. Annual ratings of teaching staff
23 members employed in the position of teacher shall not be subject to
24 grievance or appeal unless the grievance or appeal relates to a
25 charge that the school district failed to adhere substantially to the
26 approved educator evaluation system. Any such appeal initiated by
27 a teacher shall be directed to the superintendent of schools within
28 30 days of receipt of the annual rating, and the superintendent shall
29 consider the appeal pursuant to regulations promulgated pursuant to
30 section 27 of P.L. , c. (C.) (pending before the Legislature as
31 this bill).

32 e. Beginning in the 2012-2013 school year and thereafter, each
33 school district shall report on its website for each school the number
34 of teachers rated in each evaluation category for the most recent
35 school year. The Department of Education shall report on its
36 website the number of teachers, principals, assistant principals, and
37 vice-principals in each district rated in each evaluation category.
38

39 6. (New section) a. A board of education shall adopt a salary
40 schedule or compensation policy for teaching staff members
41 employed in the position of teacher, principal, assistant principal, or
42 vice-principal in which the individual's salary is determined
43 primarily by:

44 (1) the teaching staff member's demonstrated effectiveness in
45 advancing student learning, as determined by the staff member's
46 annual effectiveness rating;

1 (2) the teaching staff member's assignment to a failing school,
2 as identified by the Commissioner of Education; and
3 (3) the teaching staff member teaching a subject area that the
4 commissioner has designated as a difficult to staff subject area.
5 b. A board of education shall not adopt a salary schedule or
6 compensation policy for teaching staff members employed in the
7 position of teacher, principal, assistant principal, or vice-principal
8 in which the individual's years of employment is a primary
9 determinant of the individual's salary.
10 c. The salary schedule or compensation policy for teaching
11 staff members employed in the position of teacher, principal,
12 assistant principal, or vice-principal adopted by a board of
13 education shall not provide additional compensation for academic
14 credits earned or degrees attained unless:
15 (1) the commissioner has determined that attainment of the
16 academic credit or degree will have a demonstrably positive effect
17 on student achievement; and
18 (2) the teaching staff member is teaching or practicing in the
19 subject area in which the academic credit or degree was attained.
20 d. Regulations shall be promulgated pursuant to section 27 of
21 P.L. , c. (C.) (pending before the Legislature as this bill)
22 pertaining to the compensation of teaching staff members employed
23 in the positions of teacher, principal, assistant principal, and vice-
24 principal, and they shall be binding upon and supersede any district-
25 adopted salary schedule or compensation policy that may be
26 inconsistent with the regulations.
27 e. A school district shall adopt the salary schedule or
28 compensation policy required pursuant to this section by the 2012-
29 2013 school year, provided however that any salary schedule or
30 compensation policy that is set out in any existing collective
31 bargaining agreement need not conform to the requirements set
32 forth in regulations until such time as the agreement expires. No
33 collective bargaining agreement or other contract entered into by a
34 school district after July 1, 2012 shall conflict with the salary
35 schedule or compensation policy set forth in regulations.
36
37 7. N.J.S.18A:6-14 is amended to read as follows:
38 18A:6-14. Upon certification of any charge to the commissioner,
39 the board may suspend the person against whom such charge is
40 made, with or without pay], but, if the determination of the charge
41 by the Commissioner of Education is not made within 120 calendar
42 days after certification of the charges, excluding all delays which
43 are granted at the request of such person, then the full salary (except
44 for said 120 days) of such person shall be paid beginning on the one
45 hundred twenty-first day until such determination is made].
46 Should the charge be dismissed, the person shall be reinstated
47 immediately with full pay from the first day of such suspension.

1 Should the charge be dismissed and the suspension be continued
2 during an appeal therefrom, then the full pay or salary of such
3 person shall continue until the determination of the appeal.
4 However, the board of education shall deduct from said full pay or
5 salary any sums received by such employee or officers by way of
6 pay or salary from any substituted employment assumed during
7 such period of suspension. Should the charge be sustained on the
8 original hearing or an appeal therefrom, and should such person
9 appeal from the same, then the suspension may be continued unless
10 and until such determination is reversed, in which event he shall be
11 reinstated immediately with full pay as of the time of such
12 suspension.

13 (cf: P.L.1971, c.435, s.2)

14

15 8. N.J.S.18A:6-16 is amended to read as follows:

16 18A:6-16. Upon receipt of such a charge and certification, or of
17 a charge lawfully made to the commissioner, the commissioner or
18 the person appointed to act in the commissioner's behalf in the
19 proceedings shall examine the charges and certification. The
20 individual against whom the charges are certified shall have 15
21 days to submit a written response to the charges to the
22 commissioner. Upon a showing of good cause, the commissioner
23 may grant an extension of time. The commissioner shall render a
24 determination on the sufficiency of charges as set forth below
25 within 15 days immediately following the period provided for a
26 written response to the charges.

27 If, following receipt of the written response to the charges, the
28 commissioner is of the opinion that they are not sufficient to
29 warrant dismissal or reduction in salary of the person charged, he
30 shall dismiss the same and notify said person accordingly. If,
31 however, he shall determine that such charge is sufficient to warrant
32 dismissal or reduction in salary of the person charged, he shall
33 within 10 days of making that determination refer the case to the
34 Office of Administrative Law for further proceedings, except that
35 when a motion for summary decision has been made prior to that
36 time, the commissioner may retain the matter for purposes of
37 deciding the motion. The administrative law judge shall issue an
38 initial decision to the commissioner within 30 calendar days after
39 the case has been received by the Office of Administrative Law.

40 (cf: P.L.1998, c.42, s.2)

41

42 9. N.J.S.18A:6-31.1 is amended to read as follows:

43 18A:6-31.1. Whenever any district is divided into two or more
44 districts those persons having tenure, in office, position or
45 employment in such district in positions other than teacher,
46 principal, assistant principal, or vice-principal, shall continue to
47 have tenure in the district which comprises the territory in which

1 they were serving at the time of the division; the persons having
2 tenure in office, position or employment in such district in positions
3 other than teacher, principal, assistant principal, or vice-principal,
4 whose services were not exclusively confined to the territory
5 comprising any one of the districts as so divided, at the time of the
6 division, shall be employed, if their services are so required, in the
7 district having the highest number of pupils in average daily
8 attendance during the second academic year preceding the academic
9 year in which the new district is created as certified by the
10 department and those persons having tenure in office, position or
11 employment in the original district in positions other than teacher,
12 principal, assistant principal, or vice-principal, who are not
13 employed by the board of education of either district shall retain the
14 seniority and tenure rights acquired in the original district and shall
15 be employed in accordance therewith as vacancies occur in either
16 the original district or the new district before any other persons are
17 so employed in similar offices, positions or employments.

18 (cf: N.J.S.18A:6-31.1)

19
20 10. N.J.S.18A:6-31.2 is amended to read as follows:

21 18A:6-31.2. The tenure, seniority and pension rights of all
22 persons, who had office, position or employment in the original
23 district at the time of said division in positions other than teacher,
24 principal, assistant principal, or vice-principal, and who are
25 employed in either district after such division shall continue with
26 the same force and effect as though such division had not occurred
27 and any future continuation of service in either district shall be
28 deemed to be a continuation of the service rendered prior to said
29 division and any period of service rendered in the original district
30 shall be credited toward the acquisition of tenure, seniority and
31 pension rights in the original or new district, as the case may be.

32 (cf: N.J.S.18A:6-31.2)

33
34 11. Section 2 of P.L.1995, c.294 (C.18A:6-31.4) is amended to
35 read as follows:

36 2. Whenever a new school district is created **【**, the terms and
37 conditions of employment, whether established through a collective
38 bargaining agreement or past practice, of the largest constituent
39 school district which is affected, replaced or displaced by, or forms
40 part of the new school district, shall apply until a successor
41 agreement is negotiated with the majority representative of the new
42 school district. As used in this section, the term largest constituent
43 school district means that school district which employs the largest
44 number of teaching staff members.

45 In the event that there is an employee bargaining unit in a
46 constituent school district with the next largest number of
47 employees and with a majority representative of the unit, which is

1 not so represented in the largest school district, the terms and
2 conditions of employment for all employees holding positions in
3 that unit in the new school district shall apply provided that the
4 terms and conditions of employment shall only apply to the new
5 school district's employees in that bargaining unit】 a new collective
6 bargaining agreement shall be negotiated with the majority
7 representative of the new school district.

8 (cf: P.L.1995, c.294, s.2)

9
10 12. Section 3 of P.L.1995, c.294 (C.18A:6-31.5) is amended to
11 read as follows:

12 3. Whenever a new school district is created, the tenure and
13 seniority rights of all employees from the affected, constituent,
14 replaced or displaced districts which form or are a part of, or are
15 affected, replaced or displaced by the new school district, except for
16 employees who are superintendents or in the positions of teacher,
17 principal, assistant principal, or vice-principal, shall be recognized
18 and preserved by the new school district and all periods of
19 employment in any of the school districts shall count toward
20 acquisition of tenure and seniority in the new school district. All
21 statutory and contractual rights to tenure, seniority, accumulated
22 sick leave, leave of absence, and pension of an employee, other than
23 an employee who is a superintendent or in the positions of teacher,
24 principal, assistant principal, or vice-principal, which have been
25 acquired through employment in any of the districts shall be
26 recognized by the new school district.

27 (cf: P.L.1995, c.294, s.3)

28
29 13. Section 4 of P.L.1995, c.294 (C.18A:6-31.6) is amended to
30 read as follows:

31 4. Following consideration of the tenure and seniority rights of
32 employees provided pursuant to section 3 of this act or pursuant to
33 any other section of law, a new school district shall fill all vacancies
34 and available positions other than teacher, principal, assistant
35 principal, and vice-principal from a pool of qualified employees
36 prior to interviewing applicants or hiring new employees. The pool
37 of qualified employees shall consist of all employees of the
38 constituent, affected, displaced or replaced school districts in
39 positions other than teacher, principal, assistant principal, and vice-
40 principal, who would otherwise be entitled to continued
41 employment in that district in the following school year but are not
42 entitled to continued employment in the new school district because
43 of tenure or seniority status. **【During】** For positions other than
44 teacher, principal, assistant principal, and vice-principal, during the
45 school year in which the new district is established, a new school
46 district shall not hire an employee for a particular position until all

1 employees in the labor pool qualified to fill the position have been
2 offered employment by the new school district.

3 (cf: P.L.1995, c.294, s.4)

4
5 14. N.J.S.18A:13-49 is amended to read as follows:

6 18A:13-49. All **【principals, teachers and】** employees in the
7 employ of any dissolving local district in positions other than
8 teacher, principal, assistant principal, and vice-principal shall be
9 transferred to and continue in their respective employments in the
10 employ of the regional school district and their rights to tenure,
11 pension and accumulated leave of absence accorded under the laws
12 of the state shall not be affected by their transfer to the employ of
13 the regional school district.

14 (cf: N.J.S.18A:13-49)

15
16 15. Section 14 of P.L.1975, c.360 (C.18A:13-64) is amended to
17 read as follows:

18 14. All employees of the regional district in positions other than
19 teacher, principal, assistant principal, and vice-principal, shall
20 continue in their respective positions in the withdrawing district, or
21 in each of the constituent districts in the event of a dissolution, and
22 all of their rights of tenure, seniority, pension, leave of absence and
23 other similar benefits shall be recognized and preserved and any
24 periods of prior employment in the regional district shall count
25 toward the acquisition of tenure to the same extent as if all such
26 employment had been under the withdrawing district or in any of
27 the constituent districts in the event of a dissolution. In the event of
28 a withdrawal, any tenured employee in a school located in the
29 withdrawing district in positions other than teacher, principal,
30 assistant principal, and vice-principal, who desires to remain in the
31 employ of the regional district, and whose seniority under existing
32 tenure laws so permits, may apply for and shall be granted a
33 transfer to a position other than teacher, principal, assistant
34 principal, and vice-principal with the regional district for which he
35 is certified which is vacant, held by a tenured employee with less
36 seniority or by an employee without tenure; applications for such
37 transfers shall be made within 45 days of the date of the special
38 school election at which the withdrawal was approved.

39 (cf: P.L.1993, c.255, s.13)

40
41 16. Section 15 of P.L.1989, c.90 (C.18A:13-80) is amended to
42 read as follows:

43 15. All employees of the all purpose regional district in
44 positions other than teacher, principal, assistant principal, and vice-
45 principal shall continue in their respective positions in the new
46 district and all of their rights of tenure, seniority, pension, leave of
47 absence and other similar benefits shall be recognized and

1 preserved and any periods of prior employment in the all purpose
2 regional district shall count toward the acquisition of tenure to the
3 same extent as if the employment had been under the new district.
4 Any tenured employee in a school located in the new district in a
5 position other than teacher, principal, assistant principal, and vice-
6 principal who desires to remain in the employ of the all purpose
7 regional district, and whose seniority under existing tenure laws so
8 permits, may apply for and shall be granted a transfer to a position
9 other than teacher, principal, assistant principal, or vice-principal
10 with the all purpose regional district for which he is certified which
11 is vacant, held by a tenured employee with less seniority or by an
12 employee without tenure. Applications for these transfers shall be
13 made within 45 days of the date of the special school election at
14 which the withdrawal was approved.
15 (cf: P.L.1989, c.90, s.15)

16
17 17. Section 1 of P.L.1975, c.132 (C.18A:27-3.1) is amended to
18 read as follows:

19 1. Every board of education in this State shall cause each
20 nontenure teaching staff member employed by it in a position other
21 than teacher, principal, assistant principal, or vice-principal to be
22 observed and evaluated in the performance of her or his duties at
23 least three times during each school year but not less than once
24 during each semester. Said evaluations are to take place before
25 April 30 each year. The evaluations may cover that period between
26 April 30 of one year and April 30 of the succeeding year excepting
27 in the case of the first year of employment where the three
28 evaluations must have been completed prior to April 30. The
29 number of required observations and evaluations may be reduced
30 proportionately when an individual teaching staff member's term of
31 service is less than one academic year. Each evaluation shall be
32 followed by a conference between that teaching staff member and
33 his or her superior or superiors. The purpose of this procedure is to
34 recommend as to reemployment, identify any deficiencies, extend
35 assistance for their correction and improve professional
36 competence.
37 (cf: P.L.1993, c.100, s.1)

38
39 18. Section 1 of P.L. 1995, c.125 (C.18A:27-4.1) is amended to
40 read as follows:

41 1. Notwithstanding the provisions of any law, rule or regulation
42 to the contrary,
43 a. (1) A board of education shall appoint, transfer or remove a
44 certificated or non-certificated officer or employee **【only】** upon the
45 recommendation of the chief school administrator and by a recorded
46 roll call majority vote of the full membership of the board. The

1 board shall not withhold its approval for arbitrary and capricious
2 reasons.

3 (2) A teacher shall not be assigned to the instructional staff of a
4 school without the mutual consent of the teacher and the school
5 principal for the assignment.

6 (3) In the event that a principal does not consent to the
7 placement of a teacher under tenure, the teacher may continue to
8 receive salary and benefits while the teacher and the school district
9 search for an alternative assignment in the district. If a mutually
10 agreeable placement is not achieved within 12 months of the date
11 on which the initial assignment is approved by the board of
12 education, the board may place the teacher on permanent unpaid
13 leave. A teacher on permanent unpaid leave shall not receive
14 salary, benefits, or credit towards salary or benefits.

15 b. A board of education shall renew the employment contract
16 of a certificated or non-certificated officer or employee only upon
17 the recommendation of the chief school administrator and by a
18 recorded roll call majority vote of the full membership of the board.
19 The board shall not withhold its approval for arbitrary and
20 capricious reasons. A nontenured officer or employee who is not
21 recommended for renewal by the chief school administrator shall be
22 deemed nonrenewed. Prior to notifying the officer or employee of
23 the nonrenewal, the chief school administrator shall notify the board
24 of the recommendation not to renew the officer's or employee's
25 contract and the reasons for the recommendation. An officer or
26 employee whose employment contract is not renewed shall have the
27 right to a written statement of reasons for nonrenewal pursuant to
28 section 2 of P.L.1975, c.132 (C.18A:27-3.2) and to an informal
29 appearance before the board. The purpose of the appearance shall
30 be to permit the staff member to convince the members of the board
31 to offer reemployment. The chief school administrator shall notify
32 the officer or employee of the nonrenewal pursuant, where
33 applicable, to the provisions of section 1 of P.L.1971, c.436
34 (C.18A:27-10).

35 c. The provisions of this section shall not apply to the
36 appointment, transfer, removal, renewal or nonrenewal of a person
37 who is a treasurer of school moneys, election officer, board auditor,
38 board attorney or board secretary, except a board secretary who
39 performs business administration functions.
40 (cf: P.L.1995, c.125, s.1)

41

42 19. N.J.S.18A:28-5 is amended to read as follows:

43 18A:28-5. The services of all teaching staff members employed
44 in the positions of **【**teacher, principal, other than administrative
45 principal, assistant principal, vice-principal,**】** assistant
46 superintendent, and all school nurses including school nurse
47 supervisors, head school nurses, chief school nurses, school nurse

1 coordinators, and any other nurse performing school nursing
2 services, school athletic trainer and such other employees as are in
3 positions which require them to hold appropriate certificates issued
4 by the board of examiners, serving in any school district or under
5 any board of education, excepting those who are not the holders of
6 proper certificates in full force and effect and school business
7 administrators shared by two or more school districts, shall be
8 under tenure during good behavior and efficiency and they shall not
9 be dismissed or reduced in compensation except for inefficiency,
10 incapacity, or conduct unbecoming such a teaching staff member or
11 other just cause and then only in the manner prescribed by
12 subarticle B of article 2 of chapter 6 of this Title, after employment
13 in such district or by such board for:

14 (a) Three consecutive calendar years, or any shorter period
15 which may be fixed by the employing board for such purpose; or

16 (b) Three consecutive academic years, together with
17 employment at the beginning of the next succeeding academic year;
18 or

19 (c) The equivalent of more than three academic years within a
20 period of any four consecutive academic years.

21 For purposes of this chapter, tenure in any of the administrative
22 or supervisory positions enumerated herein shall accrue only by
23 employment in that administrative or supervisory position. Tenure
24 so accrued shall not extend to any other administrative or
25 supervisory position and nothing herein shall limit or restrict tenure
26 rights which were or may be acquired pursuant to N.J.S.18A:28-6 in
27 a position in which the individual actually served.

28 (cf: P.L.1999, c.87, s.3)

29

30 20. N.J.S.18A:28-6 is amended to read as follows:

31 18A:28-6. Any **【such】** teaching staff member, other than a
32 teacher, principal, assistant principal, or vice-principal, under tenure
33 or eligible to obtain tenure under this chapter, who is transferred or
34 promoted with his consent to another position covered by this
35 chapter on or after July 1, 1962, shall not obtain tenure in the new
36 position until after:

37 (a) the expiration of a period of employment of two consecutive
38 calendar years in the new position unless a shorter period is fixed
39 by the employing board for such purpose; or

40 (b) employment for two academic years in the new position
41 together with employment in the new position at the beginning of
42 the next succeeding academic year; or

43 (c) employment in the new position within a period of any three
44 consecutive academic years, for the equivalent of more than two
45 academic years;

46 provided that the period of employment in such new position
47 shall be included in determining the tenure and seniority rights in

1 the former position held by such teaching staff member, and in the
2 event the employment in such new position is terminated before
3 tenure is obtained therein, if he then has tenure in the district or
4 under said board of education, such teaching staff member shall be
5 returned to his former position at the salary which he would have
6 received had the transfer or promotion not occurred together with
7 any increase to which he would have been entitled during the
8 period of such transfer or promotion.

9 Any teaching staff member in the position of teacher, principal,
10 assistant principal, or vice-principal under tenure or eligible to
11 obtain tenure under this chapter, who is transferred or promoted
12 with his consent to another position covered by this chapter on or
13 after July 1, 2012, shall not obtain tenure in the new position until
14 the teaching staff member receives an annual rating of "effective"
15 or "highly effective," as defined by regulations promulgated in
16 accordance with the provisions of section 5 of P.L. , c. (C.)
17 (pending before the Legislature as this bill), in the most recent
18 annual evaluation and in the two years preceding the most recent
19 annual evaluation while in the new position.

20 (cf: N.J.S.18A:28-6)

21
22 21. N.J.S.18A:28-6.1 is amended to read as follows:

23 18A:28-6.1. Whenever, heretofore or hereafter, any board of
24 education in any school district in this state shall discontinue any
25 high school, junior high school, elementary school or any one or
26 more of the grades from kindergarten through grade 12 in the
27 district and shall, by agreement with another board of education,
28 send the pupils in such schools or grades to such other district, all
29 teaching staff members in positions other than teacher, principal,
30 assistant principal, and vice-principal, who are assigned for a
31 majority of their time in such school, grade or grades and who have
32 tenure of office at the time such schools or grades are discontinued
33 shall be employed by the board of education of such other district in
34 the same or nearest equivalent position; provided that any such
35 teaching staff member may elect to remain in the employ of the
36 former district in any position other than teacher, principal, assistant
37 principal, and vice-principal, to which he may be entitled by virtue
38 of his tenure and seniority rights by giving notice of said election to
39 the boards of education in each of the school districts at least three
40 months prior to the date on which such school, grade, or grades are
41 to be discontinued. Teaching staff members other than teachers,
42 principals, assistant principals, and vice-principals, so employed in
43 such other district shall have their rights to tenure, seniority,
44 pension and accumulated leave of absence, accorded under the laws
45 of this state, recognized and preserved by the board of education of
46 that district. Any periods of prior employment in such sending
47 district shall count toward the acquisition of tenure in the other

1 district to the same extent as if all such prior employment had been
2 in such other district.
3 (cf: N.J.S.18A:28-6.1)
4

5 22. N.J.S.18A:28-9 is amended to read as follows:

6 18A:28-9. Nothing in this title or any other law relating to
7 tenure of service shall be held to limit the right of any board of
8 education to reduce the number of teaching staff members,
9 employed in the district whenever, in the judgment of the board, it
10 is advisable to abolish any such positions for reasons of economy
11 or because of reduction in the number of pupils or of change in the
12 administrative or supervisory organization of the district or for
13 efficiencies found through the consolidation or sharing of services
14 between school districts or because a school has been identified as
15 failing by the commissioner or for other good cause upon
16 compliance with the provisions of this article.

17 (cf: N.J.S.18A:28-9)
18

19 23. N.J.S.18A:28-10 is amended to read as follows:

20 18A:28-10. **【Dismissals】** In the case of teaching staff members
21 in positions other than teacher, principal, assistant principal, or
22 vice-principal, dismissals resulting from any such reduction shall
23 not be made by reason of residence, age, sex, marriage, race,
24 religion or political affiliation but shall be made on the basis of
25 seniority according to standards to be established by the
26 commissioner with the approval of the state board.

27 In the case of teaching staff members in the position of teacher,
28 principal, assistant principal, and vice-principal, dismissals
29 resulting from any such reduction shall not be made by reason of
30 residence, age, sex, marriage, race, religion, or political affiliation,
31 but shall be made on the basis of effectiveness as determined by the
32 evaluation system established through regulations promulgated in
33 accordance with the provisions of section 5 of P.L. , c. (C.)
34 (pending before the Legislature as this bill).

35 (cf: N.J.S.18A:28-10)
36

37 24. N.J.S.18A:28-11 is amended to read as follows:

38 18A:28-11. In the case of **【any such reduction】** teaching staff
39 members in positions other than teacher, principal, assistant
40 principal, and vice-principal, the board of education shall determine
41 in any such reduction the seniority of the persons affected according
42 to such standards and shall notify each such person as to his
43 seniority status, and the board may request the commissioner for an
44 advisory opinion with respect to the applicability of the standards to
45 particular situations, which request shall be referred to a panel
46 consisting of the executive county superintendent of the county, the
47 secretary of the state board of examiners and an assistant

1 commissioner of education designated by the commissioner and
2 an advisory opinion shall be furnished by said panel. No
3 determination of such panel shall be binding upon the board of
4 education or any other party in interest or upon the commissioner or
5 the state board if any controversy or dispute arises as a result of
6 such determination and an appeal is taken therefrom pursuant to the
7 provisions of this title.

8 (cf: N.J.S.18A:28-11)

9
10 25. Section 1 of P.L.1985, c.217 (C.18A:28-11.1) is amended to
11 read as follows:

12 1. In computing length of service for seniority purposes, every
13 teaching staff member in a position other than teacher, principal,
14 assistant principal, and vice-principal who, after July 1, 1940, has
15 served or hereafter shall serve, in the active military or naval
16 service of the United States or of this State, including active service
17 in the women's army corps, the women's reserve of the naval
18 reserve, or any similar organization authorized by the United States
19 to serve with the army or navy, in time of war or an emergency, or
20 for or during any period of training, or pursuant to or in connection
21 with the operation of any system of selective service, or who was a
22 member of the American Merchant Marine during World War II
23 and is declared by the United States Department of Defense to be
24 eligible for federal veterans' benefits, shall be entitled to receive
25 equivalent years of employment or seniority credit for that service
26 as if the member had been employed for the same period of time in
27 some publicly owned and operated college, school or institution of
28 learning in this or any other state or territory of the United States,
29 except that the period of that service shall not be credited toward
30 more than four years of employment or seniority credit. Any
31 military or naval service shall be credited towards this employment
32 or seniority credit including service that occurred prior to the
33 member's employment as a teaching staff member.

34 (cf: P.L.1991, c.389, s.2)

35
36 26. N.J.S.18A:28-12 is amended to read as follows:

37 18A:28-12. If any teaching staff member in a position other than
38 teacher, principal, assistant principal, and vice-principal shall be
39 dismissed as a result of such reduction, such person shall be and
40 remain upon a preferred eligible list in the order of seniority for
41 reemployment whenever a vacancy occurs in a position for which
42 such person shall be qualified and he shall be reemployed by the
43 body causing dismissal, if and when such vacancy occurs and in
44 determining seniority, and in computing length of service for
45 reemployment, full recognition shall be given to previous years of
46 service, and the time of service by any such person in or with the
47 military or naval forces of the United States or of this State,

1 subsequent to September 1, 1940, and the time of service of any
2 member of the American Merchant Marine during World War II
3 who is declared by the United States Department of Defense to be
4 eligible for federal veterans' benefits, shall be credited to him as
5 though he had been regularly employed in such a position within
6 the district during the time of such military or naval service, except
7 that the period of that service shall not be credited toward more than
8 four years of employment or seniority credit.

9 (cf: P.L.1991, c.389, s.3)

10
11 27. Notwithstanding any provision of P.L.1968, c.410
12 (C.52:14B-1 et seq.) to the contrary, the Commissioner of
13 Education shall adopt, immediately upon filing with the Office of
14 Administrative Law, such rules and regulations as the commissioner
15 deems necessary to effectuate the provisions of P.L. , c. (C.)
16 (pending before the Legislature as this bill) which shall be effective
17 for a period not to exceed 12 months. The regulations shall
18 thereafter be amended, adopted, or readopted by the State Board of
19 Education in accordance with the provisions of P.L.1968, c.410
20 (C.52:14B-1 et seq.).

21
22 28. The following sections are repealed:

23 Section 5 of P.L.1995, c.294 (C.18A:6-31.7);

24 N.J.S.18A:8-34;

25 N.J.S.18A:13-42;

26 Section 1 of P.L.1972, c.64 (C.18A:29-4.2).

27
28 29. This act shall take effect in the 2012-2013 school year,
29 except that sections 5 and 6 shall take effect immediately.

30 31 32 STATEMENT

33
34 This bill requires that regulations be promulgated to provide for
35 an educator evaluation system for teachers, principals, assistant
36 principals, and vice-principals in public schools. The evaluation
37 system would be used in making personnel decisions including
38 compensation and the awarding and rescission of tenure. The
39 evaluation system will use multiple performance measures and will
40 at a minimum include:

41 --four defined annual rating categories: ineffective, partially
42 effective, effective, and highly effective;

43 --a requirement that at least 50% of the effectiveness ratings be
44 based on objective measures of student learning such as
45 standardized test scores or other quantifiable indicators;

- 1 --objective measures of student learning that use growth from
2 one year's quantifiable measure to the next year's quantifiable
3 measure;
- 4 --a requirement that multiple measures of teaching staff practice
5 and student learning be used in rating teaching staff effectiveness
6 with specific measures and implementation processes;
- 7 --a requirement that teaching staff receive at least one final
8 annual summative evaluation for the school year, and a conference
9 with their superior or superiors following this evaluation;
- 10 --an opportunity for teaching staff to improve their effectiveness
11 from routine evaluation feedback;
- 12 --guidelines for districts regarding training on the evaluation
13 system to support its implementation; and
- 14 --a performance framework, associated evaluation tools, and
15 observation protocols with a process for a school district to obtain
16 the approval of the commissioner to utilize other evaluation tools.
- 17 The bill authorizes the Commissioner of Education to
18 promulgate regulations that will be effective for a period not to
19 exceed 12 months. The State Board of Education will then
20 promulgate regulations in accordance with the "Administrative
21 Procedure Act."
- 22 The bill requires each school district to fully implement the
23 teacher evaluation system by the 2012-2013 school year. Beginning
24 in that school year, all teaching staff members in positions of
25 teacher, principal, assistant principal, and vice-principal will gain
26 tenure only if the person receives an annual rating of "effective" or
27 "highly effective," as defined in the new teacher evaluation system,
28 in the employee's most recent annual evaluation and in the annual
29 evaluations in the preceding two years. The process for initially
30 acquiring tenure remains the same as under current law for other
31 teaching staff members. The annual rating of a teacher under the
32 educator evaluation system will not be subject to grievance or
33 appeal unless it relates to a charge that the district failed to adhere
34 substantially to the approved evaluation process. An appeal in this
35 case will be directed to the superintendent of schools. Principals,
36 assistant principals, and vice-principals are not permitted to grieve
37 or appeal their annual ratings.
- 38 Under current law, a teaching staff member who has obtained
39 tenure or is eligible to obtain tenure who is transferred or promoted
40 with his consent to another position, acquires tenure in that new
41 position after two academic years in that position together with
42 employment in the new position at the beginning of the next
43 succeeding academic year. This bill provides that for a teacher,
44 principal, assistant principal, and vice-principal, the employee will
45 acquire tenure in this new position in the same way as initial tenure
46 is acquired: an annual rating of "effective" or "highly effective" in

1 the most recent annual evaluation and in the annual evaluations in
2 the preceding two years.

3 The bill also provides that a tenured teacher, principal, assistant
4 principal, or vice-principal will revert to non-tenure status if the
5 person receives an annual rating of “ineffective” for one year or an
6 annual rating of “partially effective” for two consecutive years. In
7 addition, a teacher with these ratings may be dismissed by either the
8 board of education or the school principal; a principal, assistant
9 principal, or a vice-principal with these ratings may be dismissed by
10 the board of education or the superintendent of schools. In order to
11 regain tenure status, a person will be required to receive three
12 consecutive annual ratings of “effective” or “highly effective.”

13 The bill provides that all teachers, principals, assistant principals,
14 and vice-principals who have tenure on July 1, 2012, the date for
15 the implementation of the educator evaluation system, will continue
16 to be under tenure. All tenured employees, however, will be subject
17 to revocation of tenure for “ineffective” or “partially effective”
18 evaluation ratings.

19 The bill requires school districts to adopt a salary schedule or
20 compensation policy for all teachers, principals, assistant principals,
21 and vice-principals that is consistent with regulations promulgated
22 in accordance with the provisions of the bill. The regulations will
23 establish the individual’s annual evaluation, assignment to a failing
24 school, and teaching in a difficult to staff subject area as the
25 primary factors that determine an individual’s compensation, and
26 years of experience cannot be a primary determinant of an
27 individual’s compensation. A district would only be allowed to
28 provide additional compensation for education attainment if the
29 commissioner has determined that the additional education will
30 have a positive effect on student achievement and the teaching staff
31 member is teaching or practicing in the subject area in the
32 additional academic credit or degree was attained.

33 The bill stipulates that a teacher will not be assigned to the
34 instructional staff of a school without the mutual consent of the
35 teacher and principal of the school. If a principal does not consent
36 to the placement of a teacher who is under tenure, the teacher may
37 continue to receive compensation as the teacher and district
38 continue to search for a mutually agreeable placement. If such as
39 placement is not found after 12 months, the teacher may be placed
40 on permanent unpaid leave.

41 The bill also:

- 42 • stipulates that, in the case of a teacher, principal, assistant
43 principal, or vice-principal, any dismissals resulting from a
44 reduction in force must be made on the basis of
45 effectiveness as determined by the evaluation system
46 established under the bill, rather than based on seniority;

A981 WEBBER, HANDLIN

19

- 1 • requires an initial Office of Administrative Law
- 2 determination within 30 days of referral of tenure cases; and
- 3 • eliminates the reinstatement of salary after 120 days if
- 4 Commissioner of Education's determination on tenure
- 5 charges has not been made.